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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
12 SAN JOSE DIVISION

14 **NETCHOICE,**

15 Plaintiff,

16 **v.**

18 **ROB BONTA, in his official capacity as
Attorney General of California,**

19 Defendant.

No. 5:24-cv-07885-EJD

**STIPULATION TO FURTHER MODIFY
SCHEDULING ORDER RE FIRST-
PHASE DISCOVERY;
~~[PROPOSED]~~ ORDER**

Dept: 4 (Fifth Floor)
Judge: The Honorable Edward J. Davila
Trial Date: None set.
Action Filed: November 12, 2024

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Attorneys for Plaintiff NetChoice

Pursuant to Federal Rule of Civil Procedure 16(b)(4) and Local Rules 6-2 and 7-12, Plaintiff NetChoice and Defendant Rob Bonta, in his official capacity as Attorney General of California (together, “the Parties”), hereby stipulate to further modify the Scheduling Order Re First-Phase Discovery, ECF 71. The Parties stipulate to extend the deadline to submit a joint statement with the Parties’ proposal(s) for second-phase discovery to 21 days after the Ninth Circuit decides NetChoice’s petition for panel rehearing and rehearing en banc, which is currently pending before that court.

This Court previously ordered the following modifications in this case:

- On November 15, 2024, the Court granted as modified the Parties’ stipulation to set a briefing schedule and hearing on NetChoice’s motion for preliminary injunction, ECF 15;
- On January 9, 2025, the Court granted as modified the Parties’ stipulation to continue the status conference, ECF 54;
- On March 13, 2025, the Court granted in part and denied in part NetChoice’s motion to stay proceedings pending appeal, ECF 65;
- On April 9, 2025, the Court entered a Scheduling Order Re First-Phase Discovery, ECF 71; and
- On April 28, the Court granted the Parties’ stipulation to modify the Court’s scheduling order to move all expert discovery to the second phase of discovery, ECF 73.

The Parties stipulate that good cause exists to extend the deadline to submit a joint statement with the Parties’ proposal(s) for second-phase discovery to 21 days after the Ninth Circuit decides NetChoice’s petition for panel rehearing and rehearing en banc for the following reasons:

WHEREAS, the Court has ordered that discovery “may proceed on a limited basis” while NetChoice’s appeal is pending at the Ninth Circuit, ECF 65;

WHEREAS, in response to the Court’s order of March 31, 2025, ECF 69, the Parties jointly stated that, 21 days after the Ninth Circuit’s merits decision on NetChoice’s pending appeal, the Parties would file a statement in this Court with their proposal for whether and when to begin the second phase of discovery, ECF 70;

1 WHEREAS, on April 9, 2025, the Court entered the Scheduling Order Re First-Phase
 2 Discovery. ECF 71. The Court ordered that “[w]ithin 21 days of a decision in the pending appeal,
 3 the Parties shall file a joint statement with a proposal for second-phase discovery,” *id.*;

4 WHEREAS, on April 28, 2025, the Court granted the Parties’ stipulation to delay all
 5 expert discovery to phase two and modified the scheduling order accordingly, ECF 73;

6 WHEREAS, on September 9, 2025, the Ninth Circuit issued its merits decision in
 7 NetChoice’s appeal, ECF 74;

8 WHEREAS, on September 23, 2025, NetChoice petitioned for panel rehearing and
 9 rehearing en banc of the Ninth Circuit’s decision, *see NetChoice v. Bonta*, No. 25-146 at ECF 71
 10 (9th Cir. Sept. 23, 2025) (Pet. for Rehearing):

11 WHEREAS, deferring the Parties’ proposal for second-phase discovery until after the
 12 Ninth Circuit decides NetChoice’s pending petition for rehearing would serve the interests of
 13 efficiency and economy;

14 IT IS HEREBY STIPULATED AND AGREED, by and among the Parties, that the
 15 deadline to submit a joint statement with the Parties’ proposal for second-phase discovery should
 16 be extended to 21 days after the Ninth Circuit decides NetChoice’s pending petition for panel
 17 rehearing and rehearing en banc.

18
 19 Dated: September 24, 2025

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1 Dated: September 24, 2025

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PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: September 25, 2025



HON. EDWARD J. DAVILA
UNITED STATES DISTRICT JUDGE